



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/891,757      | 06/26/2001  | Russell P. Davis     |                     | 3807             |

7590

08/26/2002

Russell Patton Davis  
613 Mango Dr.  
Virginia Beach, VA 23432

EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 08/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

*[Handwritten signature]*

**Office Action Summary**

Application No.

09/891,757

Applicant(s)

DAVIS, RUSSELL P.

Examiner

Thomas Price

Art Unit

3643

-- **Th MAILING DATE** of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-39 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention:

Group I in claim 1 as directed to a shellfish nursery stock container.

Group II in claim 2 as directed to shell growing device with pivoting vane.

Group III in claim 3 as directed to a shellfish growing device with upright panel.

Group IV in claim 4 as directed to a shellfish growing device with pivoting mesh.

Group V in claim 5 as directed to a shellfish device with flexible scoops.

Group VI in claim 6 as directed to a hypersaline treatment of marine products.

Group VII in claim 7 as directed to a water filtering device.

Group VIII in claim 8 as directed to a BUPSY with a shallow mesh envelope.

Group IX in claim 9 as directed to a grounding tolerant current capturing device.

Group X in claim 10 as directed to a device and process that maintains water channels.

Group XI in claim 11 as directed to a shellfish reef geo-structures.

Group XII in claim 12 as directed to a soup made from cooked seaweeds.

Group XIII in claim 13 as directed to a seaweed soup with clams and oysters.

Group XIV in claim 14 as directed to a seaweed soup with calcium.

Group XV in claim 15 as directed to a fermented food with probiotic bacteria.

Group XVI in claim 16 as directed to a shellfish growing device with mesh paneled open top container.

Art Unit: 3643

Group XVII in claim 17 as directed to a snag resistant device with a swept wing foil.

Group XVIII in claims 18 and 19 as directed to a process of using shellfish polyculture.

Group XIV in claim 20 as directed to a porous lime.

Group XX in claim 21 as directed to a cavitation suppressing marine propeller nozzle.

Group XXI in claim 22 as directed to an aquaculture breeding selection process.

Group XXII in claim 23 as directed to a permanent mooring and aquaculture anchor.

Group XXIII in claim 24 as directed to a process of sprinkler irrigating intertidal shellfish.

Group XXIV in claim 25 as directed to a clam predator exclusion net.

Group XXV in claims 26 and 28 as directed to a shellfish polyculture device.

Group XXVI in claim 27 as directed to a process of enhanced cultivation of aquatic vegetation.

Group XXVII in claim 29 as directed to a process of enhancing the cultivation of shellfish by the use of macroalgae and sub-aquatic vegetation.

Group XXVIII in claim 30 as directed to a process of using a horizontal mesh to cultivate marsh grass.

Group XXIX in claim 31 as directed to shellfish culture device panels.

Group XXX in claim 32 as directed to a floating shellfish growing device with pontoons.

Group XXXI in claim 33 as directed to a water supported live well with impermeable membrane.

Group XXXII in claim 34 as directed to a larval culture and draining device.

Group XXXIII in claim 35 as directed to a movable stretcher.

Group XXXIV in claim 36 as directed to a wave agitated floating platform.

Group XXXV in claim 37 as directed to the process of mitigating the acid formed.

Group XXXVI in claim 38 as directed to a process of sequestration of toxic and sulfide rich estuarine.

Group XXXVII in claim 39 as directed to a process of development and management of low flow estuarine canals.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

Art Unit: 3643

all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Mon, Tues, Thurs & Fri 6:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Rtp  
August 23, 20002

  
Thomas Price  
Primary Examiner GAU: 3643